

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)	
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)	
Second Periodic Review of the)	MB Docket No. 03-15
Commission's Rules and Policies)	
Affecting the Conversion)	RM-9832
To Digital Television)	
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**COMMENTS OF THE WALT DISNEY COMPANY AND
THE ABC TELEVISION NETWORK**

The Walt Disney Company files these comments on its own behalf and on behalf of its subsidiary, The ABC Television Network (collectively, "Disney/ABC"), in the Federal Communications Commission's ("Commission's" or "FCC's") Second Periodic Review of its rules governing the digital television ("DTV") broadcast transition.¹

INTRODUCTION

Disney/ABC is filing these comments to stress a few issues of particular interest to Disney/ABC, namely those dealing with simulcasting, the Advanced Television Systems Committee ("ATSC") DTV standard, the Program System and Information Protocol ("PSIP") and the broadcast flag, and the concerns of Disney/ABC DTV stations currently operating on

¹ Notice of Proposed Rulemaking, MB Docket No. 03-15, RM 9832, Report No. FCC 03-8, released January 27, 2003 ("Notice").

channels in the 52-69 “out of core” band. In addition, Disney/ABC is a member of the following organizations that are filing comments in this proceeding: the National Association of Broadcasters (“NAB”), the Association for Maximum Service Television (“MSTV”), and ATSC. NAB and MSTV are filing joint comments that comprehensively address the many issues raised in this rulemaking and Disney/ABC supports those comments. Disney/ABC also supports ATSC’s comments, which address the standards and PSIP issues raised by the FCC.

Disney/ABC has devoted significant resources to the digital transition, both at the station and the network level. Disney/ABC owns ten television stations, ranging in market size from New York and Los Angeles to Flint, Michigan and Toledo, Ohio.² Nine of Disney/ABC’s television stations are operating in digital as follows: (1) all are operating at the full power level as authorized by the FCC; (2) all are passing through high-definition ABC network programming; and (3) all are simulcasting nearly the entirety of the stations’ analog schedules. Disney/ABC’s television station in New York, WABC-TV (“WABC”), is not currently operating in digital due to the loss of its digital transmitter that was atop the former World Trade Center. Prior to September 11, 2001, WABC was operating at the full FCC-authorized power level, was capable of passing through high definition programming, and was simulcasting virtually all of WABC’s analog schedule. WABC is working extremely hard to re-launch digital service and anticipates that it will be transmitting in digital by late summer 2003, from a site atop the Empire State Building.

² Disney/ABC owns the following television stations: KABC-TV (Los Angeles, California); KFSN-TV (Fresno, California); KGO-TV (San Francisco, California); KTRK-TV (Houston, Texas); WABC-TV (New York, New York), WJRT-TV (Flint, Michigan); WLS-TV (Chicago, Illinois); WPVI-TV (Philadelphia, Pennsylvania); WTVD (Raleigh-Durham); and WTVG (Toledo, Ohio).

As for programming, The ABC Television Network is airing all of its scripted comedies and dramas and theatrical movies in full high definition for the 2002-2003 season.³ ABC will continue to air all its scripted comedies and dramas as well as theatrical movies in high definition during the 2003-04 season. Moreover, ABC recently has added significantly to the amount of sports programming it will be airing in high definition. Thus far this year, ABC has already aired the Super Bowl and the Academy Awards in high definition. Later this year, ABC will air the NBA Finals and the Stanley Cup Finals in high definition and, next season, ABC will air the entire season of Monday Night Football in high definition.

**THE SIMULCASTING REQUIREMENT AND THE FCC'S
PROPOSED DEFINITION OF SIMULCASTING REMAIN UNNECESSARY
AND, IF MAINTAINED, WILL CONTINUE TO DETER INNOVATION**

The FCC seeks comment on whether to eliminate or revise its simulcasting requirement.⁴ Disney/ABC submits that the simulcasting requirement should be repealed not only because it is unnecessary but also because it is an ineffective proxy for encouraging broadcasters to innovate and utilize their digital facilities. As mentioned above, all of Disney/ABC's stations that are broadcasting in digital currently simulcast nearly all of their analog programming, and thus currently are in full compliance with the requirement that broadcasters simulcast 50% of their analog programming on their digital channel. Thus, for a broadcaster like Disney/ABC, the requirement is irrelevant. However, by 2005 when the 100% simulcasting requirement becomes effective, that requirement would reduce the incentive for Disney/ABC to develop innovative

³ ABC is the only major broadcast network currently airing its high definition programming in Dolby Digital 5.1-channel surround sound. All of ABC's programs use 720 Progressive (720P), ABC's selected HDTV format.

⁴ Notice at ¶ 66.

and creative uses of the digital spectrum that ultimately could drive consumer demand for digital television and speed the transition.

Disney/ABC appreciates the FCC's goal of encouraging broadcasters to make full and efficient use of the digital spectrum and to avoid inconsistent uses of the analog and digital spectrum that could prolong the transition. Therefore, in the event the FCC repeals the simulcasting requirement, Disney/ABC does not oppose the FCC's suggestion that the FCC's digital broadcast schedule requirements should be adjusted to reflect the repeal of the simulcasting requirement as discussed in paragraph 68 of the Notice.⁵

In any event, Disney/ABC cautions against the Commission adopting its proposed definition of simulcasting. That definition interprets simulcasting as the broadcast of programming (excluding commercials and promotions) on the same channel within a 24-hour period. While intended to promote innovation, Disney/ABC is concerned that the definition could cause confusion, especially given the contractual arrangements that currently govern the distribution (especially simultaneous distribution) of programming. A better solution that would speed the transition and promote efficient use of the digital spectrum, and would still grant stations the flexibility to innovate with the digital spectrum, would be to adjust the FCC's operating schedule requirements, as addressed in paragraph 68 of the Notice.

**THE FCC SHOULD INCORPORATE CHANGES IN THE ATSC STANDARD
AND SHOULD PROVIDE A GRACE PERIOD FOR BROADCASTERS
TO IMPLEMENT THESE CHANGES**

As discussed in more detail in the comments filed by ATSC, Disney/ABC encourages the FCC to incorporate current and future versions of ATSC DTV Standard A/53B as revised and

⁵ Notice at ¶ 68.

adopted by ATSC. Disney/ABC believes that the FCC's incorporating such changes will help keep the digital standard current, flexible, and relevant. Disney/ABC proposes that, if the FCC does incorporate such changes, it also grant broadcasters some limited grace period to implement the changes, such as a period of 90 to 120 days.

**THE FCC SHOULD REQUIRE CARRIAGE OF PSIP
AND SHOULD MOVE SWIFTLY TO ADOPT AND IMPLEMENT
THE BROADCAST FLAG**

In the Notice, the FCC seeks comment on whether it should adopt the PSIP ATSC A/65A standard as part of the FCC's rules and thus make it mandatory for broadcasters to use PSIP.⁶ In the event that the use of PSIP is made mandatory, the FCC also seeks comment as to whether to adopt the PSIP standard in its entirety or to adopt only selected portions.⁷ Disney/ABC urges the FCC to fully adopt A/65A and any future revisions as adopted by the ATSC. Disney/ABC also proposes that, if the FCC does incorporate such changes, it also grant broadcasters a limited grace period to implement the changes (as discussed above with respect to A/53), such as a period of 90 to 120 days.

The information contained within PSIP is extremely important to the digital transition. The PSIP includes vital information such as navigation data, content advisory, program listings, event descriptions, secondary audio and closed captioning, and other critical, consumer-friendly information, all of which will ease consumers' transition to digital. Thus, the FCC should require the carriage of PSIP in order to further a speedy transition and lessen consumer confusion.

⁶ Notice at ¶ 114.

⁷ *Id.*

In addition to the elements of PSIP discussed in the Notice, PSIP implements the redistribution descriptor, the marker commonly called the broadcast flag, which, together with obligations for detection and response, would protect digital broadcasts from unauthorized retransmission, including retransmission over the Internet.⁸ Disney/ABC previously has argued that the Commission has the authority to adopt and implement the broadcast flag solution that has been endorsed and submitted by a wide cross-section of interests.⁹ Disney/ABC has supported the broadcast flag so that broadcast content can be protected to at least a level that would allow broadcasting to remain competitive with cable and satellite in the market for the distribution of high-quality digital programming.

The broadcast flag solution, as proposed to the FCC, would be contained within PSIP and, therefore, Disney/ABC strongly supports a Commission requirement for PSIP, in order that the DTV broadcast flag be uniformly defined and implemented. Of course, Disney/ABC also strongly encourages the FCC to swiftly adopt and implement the broadcast flag solution. As stated in its earlier comments, Disney/ABC is a strong supporter of the digital transition and is providing a significant high definition content, but as the digital transition progresses, the lack of a broadcast flag is becoming an increasing matter of concern, especially as the unauthorized redistribution of broadcast content continues to accelerate.

⁸ The “broadcast flag” standard for digital broadcast copy protection would require use of the Redistribution Control Descriptor, as set forth in the ATSC Standard A/65A, to mark digital broadcast programming so as to limit its unauthorized redistribution.

⁹ See Joint Comments of the Motion Picture Association of America, ABC, ABC Television Affiliates Association, AFMA, American Association of Advertising Agencies, AFTRA, American Society of Composers, Authors, and Publishers, MSTV, Association of National Advertisers, Belo, BMI, CBS, DGA, Fox Broadcasting Company, International Alliance of Theatrical and Stage Employees, Motion Picture Technicians, Artists, and Allied Crafts of the

**THE COMMISSION SHOULD CONTINUE TO PROVIDE
MAXIMUM PROTECTION TO
BROADCASTERS OPERATING ON CHANNELS 52-69**

Disney/ABC has a particular interest in the FCC's policies regarding the digital transition for channels 52-69. Four of Disney/ABC's ten television stations have digital allotments in the 52-69 band (thus 40% of Disney/ABC's stations are directly affected by the Commission's actions regarding this spectrum).¹⁰ All four stations currently are serving viewers in their local markets and operating at full power, as specified above. These stations also are leaders in their markets in providing news and information to their viewers.

The joint comments filed by NAB and MSTV comment comprehensively on the specific protection issues raised regarding stations already operating in this band, and Disney/ABC strongly supports the arguments of NAB and MSTV. However, Disney/ABC wants to stress for the Commission's attention that Disney/ABC has expended significant resources to build and operate our stations in this band and that our stations are committed to serving their viewers. Therefore, Disney/ABC strongly recommends that the FCC continue to provide protections for consumers relying on these stations for digital service as consumers make the transition to digital.

United States, AFL-CIO, NAB, SAG, WGA East, WGA West, *In the Matter of Digital Broadcast Copy Protection*, MB Docket No. 02-230 (filed Dec. 6, 2002).

¹⁰ WLS-TV, Chicago (channel 52); WTVD, Raleigh-Durham (channel 52); KABC-TV, Los Angeles (channel 53), WPVI-TV, Philadelphia (channel 64).

CONCLUSION

Disney/ABC is fully committed to the digital transition and appreciates the Commission's efforts to speed and encourage the transition. Disney/ABC supports the NAB/MSTV comments, and stresses the need for the FCC to move swiftly to adopt the broadcast flag.

Respectfully submitted,

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